

## **Chapter 27.71**

### **ADDITIONAL HEIGHT AND AREA REGULATIONS**

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**27.71.010 Scope of Regulations.**

The district regulations hereinafter set forth in this chapter qualify or supplement, as the case may be, the district regulations appearing elsewhere in this title. (Ord. 12571 §373; May 8, 1979).

**27.71.020 Necessary Mechanical Appurtenances.**

All necessary mechanical appurtenances located on top of a building are exempt from the height regulations contained in this title as follows:

(a) No such appurtenances may exceed twenty feet in height above the maximum permitted in the district in which they are located;

(b) All of said appurtenances must be set back a minimum of fifteen feet from all faces of a building when said faces are adjacent to a street. (Ord. 12571 §374; May 8, 1979).

**27.71.025 Chimneys, Antenna Towers, and Grain Elevators.**

Chimneys, cooling towers, elevator bulkheads, grain elevators, fire towers, stage towers or scenery lofts, amateur radio antenna installations not exceeding sixty-five feet in height (which includes a tower not exceeding fifty feet in height), noncommercial radio towers not exceeding fifty feet in height, wind energy conversion systems authorized by conditional use or special permit, or water towers are exempt from the height regulations as contained herein. (Ord. 16673 §14; September 26, 1994; prior Ord. 13487 §6; November 1, 1982; Ord. 13004 §2; September 29, 1980; Ord. 12978 §27; August 25, 1980; Ord. 12657 §17; August 6, 1979).

**27.71.030 Front and Side Yards; Driveways.**

A driveway shall be permitted within the required front and side yards only if the driveway provides a connection to a parking space that is or will be located as permitted in this title, or if the driveway provides access to gasoline pump islands, or if the driveway is located in the B-1, H-1, H-2, or H-3 zoning district and the driveway provides an exit from a drive-in or drive-through facility. Vehicle stacking for drive-in facilities shall be permitted within the required side yard if such side yard does not abut a residential district. (Ord. 16481 §1; September 20, 1993; prior Ord. 15307 §1; October 2, 1989; Ord. 14466 §1; August 18, 1986; Ord. 13469 §1; September 27, 1982; Ord. 12571 §375; May 8, 1979).

**27.71.035 Front Yards; Gasoline Pumps Permitted.**

Gasoline pumps and gasoline pump islands may be located in a required front yard when located more than twelve feet from the front lot line, except that in the B-2 and B-5 zoning districts, gasoline pumps and gasoline pump islands may only be located in a required front yard when such location is approved as part of the use permit. (Ord. 14466, as amended by Ord. 14581 §1; January 12, 1987).

**27.71.040 Construction and Use of Accessory Buildings.**

No accessory buildings shall be constructed upon a lot until the construction of the main building has been commenced, and no accessory buildings shall be used for dwelling purposes, except that in the AG, AGR, and R-1 zoning districts, an accessory building may be used for dwelling purposes by not more than two domestic employees employed entirely on the premises if a special permit for such use has been obtained in conformance with the requirements of Chapter 27.63. (Ord. 16088 §4; March 23, 1992; prior Ord. 12571 §376; May 8, 1979).

**27.71.050 Projections From Buildings.**

Every part of any required yard shall be open to the sky, unobstructed by a building, except:

(a) Eaves may project into a front or rear yard thirty-six inches, exclusive of gutters.  
(b) Eaves may project into a side yard twenty-four inches, or two-fifths of the required side yard, whichever projection is greater, exclusive of gutters.

(c) Ordinary projection of sills, belt courses, cornices, vertical solar screens, and ornamental features which may project twelve inches.

(d) In the R-1, R-2, R-3, and R-4 districts, air conditioners or heat pumps, not to exceed five ton units or parts thereof, may project into a required side yard, provided that such projection shall be distant at least two feet from the adjacent lot line and shall not extend more than three feet from the building. Such air conditioners may project into a required front yard but shall not extend more than three feet from the building, and such air conditioner or heat pump may extend into one side of a corner lot. In R-1, R-2, R-3, or R-4 districts, air conditioners or heat pumps not to exceed five tons or parts thereof may project into such yards not more than four feet from the building it serves, and in no event shall be closer than one foot to the adjacent lot line, and such air conditioner or heat pump may extend into one side of a corner lot.

(e) Solar collectors which are a part of the main building may extend into a required rear yard for a distance not to exceed ten feet, and solar collectors may extend into a required side yard, provided that they have a minimum seven foot clearance from grade; and provided, further, that such extension shall be distant at least three feet from the adjacent lot line and may project into a side yard forty-eight inches, or two-fifths of the required side yard, whichever projection is greater.

(f) Ornamental siding and wall sheathing material, not including brick veneer, may project a maximum of two inches into any required yard.

(g) As otherwise provided in this title. (Ord. 15819 §1; February 4, 1991: prior Ord. 13728 §1; November 7, 1983: Ord. 13522 §1; December 27, 1982: Ord. 13211 §1; September 21, 1981: Ord. 13067 §5; January 5, 1981: Ord. 12899 §1; April 14, 1980: Ord. 12571 §377; May 8, 1979).

**27.71.060 Walkways in the Rear Yard.**

In the required rear yards of the O-1, B-1, B-2, B-3, H-1, H-2, H-3, and I-1 districts, enclosed walkways not more than one story in height nor eight feet in width are permitted within two feet of the rear lot line. (Ord. 12571 §378; May 8, 1979).

**27.71.070 Occupancy of Basements and Cellars.**

No basement or cellar shall be occupied for residential purposes until the remainder of the building has been substantially completed. (Ord. 12571 §379; May 8, 1979).

**27.71.080 Fences.**

Notwithstanding the area regulations of this title with the requirements for open space for front yard, side yard, and rear yard, fences may be erected to a height not to exceed seventy-six inches on any part of a lot or premises, provided, that fences may be erected to a height not to exceed ninety-six inches in the required front yard abutting a major street if the following conditions are met:

- (a) The lot or premises has double street frontage and abuts a major street;
- (b) Vehicular access to the lot or premises is not from the major street; and
- (c) The fence shall be parallel to the major street.

However, no fence shall be erected within the triangular area required for sight distance of vehicles entering or exiting the property or entering an adjacent intersection, in conformance with the design standards of the city and the "guidelines and regulations for driveway design and approach." The height of a fence shall be determined by a measurement from the ground beneath the fence. Swales and other earth depressions up to six feet wide shall not be used when measuring the fence's height. Man-made earth berms, terraces, and retaining walls that elevate the fence shall be considered a part of the fence. Notwithstanding the above, if a lot or premises is lower than an adjacent major street, as defined in Section 26.07.190 of the Land Subdivision Ordinance, then the height of the fence shall be determined by a measurement from the street grade at a ninety degree angle from the fence; provided, however, the total vertical measurement from the ground beneath the fence to the top of the fence shall not exceed twelve feet.

The height limitation herein provided for fences permitted on any part of a lot or premises, notwithstanding the area regulation of this title with the requirements for open space from front yard, side yard, and rear yard, shall not apply to fences required by the city for uses permitted by the city. It is not intended that any structure other than a fence is permitted on any part of a lot or premises by this section, and all other structures must comply with area and use regulations of this title. (Ord. 15896 §1; May 20, 1991; prior Ord. 13521 §1; December 27, 1982; Ord. 13215 §1; October 5, 1981; Ord. 12571 §380; May 8, 1979).

#### **27.71.090 Fire Escapes and Chimneys; Projection Into Yards.**

Open lattice enclosed fire escapes, fireproof outside stairways, and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the building inspector for a distance of not more than three and one-half feet and where the same are so placed as not to obstruct light and ventilation of adjacent dwellings.

Chimneys, flues, and fireplaces may be permitted by the director of building and safety to project into any required yard for a distance of not more than two feet where the same are so placed as not to obstruct light and ventilation. (Ord. 12571 §381; May 8, 1979).

#### **27.71.095 Light Wells and Egress Windows; Projection into Required Yards.**

Any light well or egress window may be located in any required front, side or rear yard, provided:

- (a) No such light well or egress window may be placed within two feet of any property line;
- (b) Any light well or egress window located in any required yard must have a safety railing that meets all requirements for safety railings of the Uniform Building Code as adopted by the Lincoln Municipal Code if it is within five feet of any sidewalk, walkway, or driveway;
- (c) The construction of the light wells or egress windows meets the requirements of the Uniform Building Code as adopted by the Lincoln Municipal Code;
- (d) The well does not extend more than one foot above the finished grade.

The requirements of (b) above may be waived by the City Council. (Ord. 17634 §1; March 13, 2000).

**27.71.100 Porches, Balconies, Patios, and Terraces in Front Yards.**

An open, unenclosed porch may project into a required front yard for a distance not exceeding ten feet; provided, however, such porches on residences in the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 zoning districts which project into the required front yard no closer than ten feet from the street line may be enclosed under the following conditions:

(a) The enclosed porch shall not be served by a heating system, cooling system, or plumbing;

(b) At least forty percent of the other residences on the same frontage in the same zoning district extend into the required front yard a distance equal to or greater than the applicant's porch (for the purpose of this section, extensions into the front yard may be a porch, balcony, vestibule, or the main part of the building);

(c) The applicant's porch shall not be located within any building line district; and

(d) At least fifty percent of each exterior wall shall be transparent.

Balconies, patios, and paved terraces may project into a required front yard for a distance not exceeding six feet. An enclosed vestibule containing not more than forty square feet may project into a required front yard for a distance not to exceed four feet. This section shall not be interpreted as establishing a different required front yard in that district, nor shall this section be used to adjust front yard setbacks under Section 27.71.170 of this ordinance. (Ord. 14780 §21; November 2, 1987; prior Ord. 13532 §1; January 17, 1983; Ord. 13067 §6; January 5, 1981; Ord. 12571 §382; May 8, 1979).

**27.71.110 Projection of Terraces, Patios, Decks, and Ornamental Features.**

Terraces, patios, uncovered decks, and ornamental features which do not extend more than three feet above or below the adjacent ground level may project into a required side or rear yard, provided these projections be distant at least two feet from the adjacent side lot line. (Ord. 13067 §7; January 5, 1981; prior Ord. 12571 §383; May 8, 1979).

**27.71.115 Canopies in Front Yard.**

In B-1, H-1, H-2, H-3, B-3 and I-1 zoning districts, canopies may project into a required front yard; provided, that a five foot setback shall be maintained from the property line, and such canopies shall not cover more than six square feet of ground area per each foot of frontage, and no portion of the canopy shall be lower than nine feet above grade.

In B-2 zoning districts, canopies may only project into the required front yard when the size and location of such canopies are approved as part of the use permit. (Ord. 16054 §1; February 18, 1992; prior Ord. 14581 §2; January 12, 1987; Ord. 14225 §1; September 30, 1985; Ord. 12571 §383a; May 8, 1979).

**27.71.120 Temporary Buildings and Fences; Temporary Paving Plants; Temporary Concrete Batch Plants.**

(a) Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but such temporary building shall be removed upon completion of the construction work. Temporary fences used in conjunction with construction work only are permitted under the following conditions:

(1) Not to exceed ninety-six inches in height;

(2) Only permitted to protect construction work and materials;

(3) May be permitted on any part of a lot but not encompassing any greater area than necessary to provide protection to the construction work or materials and encompassing only that part of a lot necessary to allow construction activity and access around the structures;

(4) Shall be removed upon completion of the construction work or the availability of other protection within the lot. On lots or areas in which more than one building will be under construction, the area enclosed by the fence shall be reduced as construction proceeds.

(5) Such temporary fence shall not obstruct the visibility of the construction site nor prevent access to the site by emergency vehicles.

(6) No fence shall be erected within that triangular area required for sight distance of vehicles entering or exiting the property or entering an adjacent intersection in conformance with the "design standards" and "guidelines and regulations for driveway design" of the city.

(b) Temporary paving plants used for the paving of federal or state highways or county roads are permitted in any zoning district during the project construction period under the following conditions:

(1) The plant shall be located outside the city limits on premises abutting the specific construction project and having access to a paved road.

(2) The boundaries of the property used for the plant shall be located no closer than 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility, hospital, motel, or park.

(3) The permittee shall require its suppliers to use paved roads or other designated truck routes approved by the County Engineer for the delivery of supplies to the paving plant.

(4) Paving material prepared at the plant shall not be transported to any location other than the abutting project.

(5) The plant shall be removed upon substantial completion of the construction project.

(c) Temporary concrete paving plants. Temporary concrete paving plants are permitted in any zoning district by administrative permit issued by the Planning Director. The Planning Director shall not issue a permit or renew a permit without written approval by the Director of the Lincoln-Lancaster County Health Department and the Director of the Public Works and Utilities Department.

(1) Applications for an administrative permit shall include:

(i) A site plan showing the entire limits of the permit area including the plant location, material storage areas, and the ingress/egress;

(ii) A dust control and suppression plan including the plant operations and haul roads to and from plant to project;

(iii) A description or manufacturer's specification regarding particulate control equipment;

(iv) A copy of a signed contract or other verification that the applicant is under contract to supply concrete for a city arterial street paving project;

(v) A noise control plan that will allow the operation to comply with Chapter 8.24 of the Lincoln Municipal Code.

(vi) A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the plant shall be located to locate the plant thereon.

(2) The administrative permit shall be issued under the following conditions:

(i) The plant site shall be approved by the City Engineer or if outside the city limits by the County Engineer and shall be located in the general vicinity of the specific arterial street paving project or projects and have access to a paved road;

(ii) The boundaries of the property used for the plant shall be located no closer than 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility, hospital, motel, or park;

(iii) The permittee shall require its suppliers to use only paved roads approved by the Director of Public Works or the County Engineer as the case may be, for the delivery of supplies to the plant. The permittee shall further require that the drivers of concrete trucks leaving the plant also use said paved roads. EXCEPTION: The use of nonpaved roads may be approved on a case-by-case basis by the Director of Public Works or the County Engineer;

(iv) The permit site shall be cleaned up and restored to its pre-permit condition within thirty days following the completion of the project. Restoration includes replanting of vegetation and maintenance of erosion and sediment control until the site is reestablished. Any paved or unpaved road damaged by the permittee's use of such road, including permittee's suppliers and concrete trucks entering and/or leaving the plant, shall be repaired at permittee's cost and expense;

(v) All concrete produced by this plant shall be used to complete the project. The concrete shall not be provided for concrete work to be performed by persons other than the permittee;

(vi) The anticipated set up and removal dates shall be identified on the application. Amendments to these dates must be requested to the Planning Director in writing;

(vii) The applicant shall submit a performance bond satisfactory to the City Attorney in the minimum amount of \$5,000, or an amount determined by the City to be sufficient, to guarantee performance and clean up of the permit site and to pay for repairs to paved and unpaved roads damaged by permittee's use of such roads.

(3) Permits issued pursuant to this section shall expire on the completion date of the project as set forth in the permit application. The Planning Director may extend the expiration date by administrative amendment upon a showing that the project completion is delayed or that the permittee has contracted for another project in conformance with subparagraph (a) above.

(d) Temporary concrete batch plants. Temporary concrete batch plants are permitted in any zoning district by administrative permit issued by the Planning Director. The Planning Director shall not issue a permit or renew a permit without written approval by the Director of the Lincoln-Lancaster County Health Department.

(1) Applications for the administrative permit shall include:

(i) A site plan showing the entire limits of the permit area including the plant location, material storage areas, and the ingress/egress;

(ii) A dust control and suppression plan including the plant operations and haul roads to and from plant to project;

(iii) A statement indicating the typical hours of operation. The plant may operate no more than fourteen hours per day, except on New Year Day, Memorial Day, the 4th of July, Labor Day, Thanksgiving Day, and Christmas when the operation shall not begin before noon;

(iv) A description or manufacturer's specification regarding particulate control equipment;

(v) A copy of a signed contract or other verification that the applicant is under contract to supply concrete for a project requiring at least 3,000 yards of concrete located within the same section or one mile of the permitted plant. The contract or other verification shall include the commencement and ending dates of the project. The Planning Director may increase the one-mile distance limit to no more than two miles if necessary to avoid routing trucks through local streets

or inadequate county roads, or locations near occupied dwellings, schools, libraries, churches, or other noise or dust sensitive uses; and

(vi) A noise control plan that will allow the operation to comply with Chapter 8.24 of the Lincoln Municipal Code.

(vii) A copy of a signed lease or other verification that the applicant has permission of the owner of the land upon which the plant shall be located to locate the plant thereon.

(2) The administrative permit shall be issued under the following conditions:

(i) The plant shall be located on premises in the same section or within one mile of the project identified on the application or as authorized under subparagraph (d)(1)(v) above;

(ii) The silo, batch plant, and aggregate storage shall be located no closer than 300 feet from an occupied dwelling or from any school, church, library, early childhood care facility, hospital, motel, or park;

(iii) The permittee shall require its suppliers to use only paved roads approved by the Director of Public Works or the County Engineer as the case may be, for the delivery of supplies to the concrete batch plant. The permittee shall further require that the drivers of concrete trucks leaving the plant also use said paved roads. EXCEPTION: The use of nonpaved roads may be approved on a case-by-case basis by the Director of Public Works or County Engineer. Additional bonding may be required to pay for repairs of damage to such nonpaved roads;

(iv) The plant shall be removed upon completion of the project identified in the application; or upon construction and occupancy resulting in a violation of subparagraph (d)(2)(ii) above. The permit site shall be cleaned up and restored to its pre-permit condition within thirty days following the completion of the project;

(v) All concrete produced by this plant shall be used to complete the project, except that the permittee may use the concrete product for sidewalks, driveways, foundations, parking lots, and other small concrete work to be performed by the permittee. The concrete shall not be provided for concrete work to be performed by persons other than the permittee. The amount of concrete produced for small concrete work shall not exceed fifty percent of that produced for the project;

(vi) The plant shall be recalibrated to the satisfaction of the Public Works and Utilities Department prior to construction of any public improvement using concrete produced by this plant;

(vii) The anticipated set up and removal dates shall be identified on the application. Amendments to these dates must be requested to the Planning Director in writing;

(viii) The applicant shall submit a performance bond satisfactory to the City Attorney in the amount of \$5,000 to guarantee performance and clean up of the permit site.

(3) Permits issued pursuant to this section shall expire on December 31 of each year or the completion date of the project as set forth in the permit application, whichever is earlier. The Planning Director may extend the expiration date by an administrative amendment upon a showing that the project completion is delayed by weather or other causes beyond control of the permittee, or that the permittee has contracted for another project in conformance with subparagraph (a) above; however, no extension of the expiration date may extend the permit beyond December 31 of the year of issuance. Renewal of a previously issued permit shall be by application in the same form as the original permit.

(4) The Planning Director may revoke the temporary permit for any one or more of the following violations:



(i) Failure to operate the facility in accordance with the provisions of this section or with the approved application;

(ii) A violation of any city, county, state, or federal law;

(iii) Denial of access to the site to determine compliance with this section;

(iv) Unreasonable noise or disturbance to the surrounding neighborhood;

(5) The action of the Planning Director in approving, denying, refusing to renew or revoking a permit pursuant to this section may be appealed. Any aggrieved person may appeal the action of the Planning Director to the Planning Commission by filing notice of appeal with the Planning Director within fourteen days following the decision of the Planning Director. Final action by the Planning Commission may be appealed to the City Council by any aggrieved person by filing notice of appeal with the City Clerk within fourteen days following the action by the Planning Commission. (Ord. 18369 §1; May 24, 2004; prior Ord. 17501 § 1; May 3, 1999; Ord. 17214 §1; July 14, 1997; Ord. 13221 §1; October 12, 1981; Ord. 12571 §384; May 8, 1979).

#### **27.71.130 More Than One Main Building on Business, Commercial, or Industrial Tract.**

Where a lot or tract is used for a business, commercial, or industrial purpose, more than one main building may be located upon the lot or tract, but only when such buildings conform to all open space requirements around the lot for the district in which the lot or tract is located. (Ord. 12571 §385; May 8, 1979).

#### **27.71.140 Two or More Buildings for Two-family Dwellings, Multiple-family, Institutional or Hotel Purposes.**

In the event that a lot is to be occupied by a group of two or more buildings to be used as a unit for any combination of two-family dwellings, multiple-family dwelling, institutional, or hotel purposes, there may be more than one main building on the lot; provided, however, that the open space between buildings shall have a minimum dimension of twenty feet for one-story buildings, thirty feet for two-story buildings, and forty feet for three-story buildings. (Ord. 13326 §1; March 1, 1982; prior Ord. 12571 §386; May 8, 1979).

#### **27.71.150 Multiple Dwelling Considered as One Building.**

For the purpose of the side yard regulations, a two-family dwelling or a multiple dwelling shall be considered as one building occupying one lot. (Ord. 12571 §387; May 8, 1979).

#### **27.71.155 Projection of Building Facades into the Required Front Yard in the R-4, R-5, R-6, R-7, and R-8 Districts in Areas of the City Annexed Prior to January 31, 1949.**

The following provisions shall apply to the R-4, R-5, R-6, R-7 and R-8 districts in areas of the City annexed prior to January 31, 1949. In order to encourage variation of the front elevation, up to twenty-five percent of the length of the principal street facade of a building may project up to two feet into the required front yard. Notwithstanding the above, a porch may not project into a required front yard beyond that otherwise allowed by Section 27.71.100 or Section 27.71.110. (Ord. 17664 §11; May 1, 2000).

#### **27.71.160 Public Utilities.**

Notwithstanding the regulations of the various districts, public utilities structures may be erected where necessary in any district on any lot of one acre or more in area. Poles and towers used

for the support of wires and appurtenant equipment for supplying public utility services shall not be considered as structures or buildings under this title. When located adjacent to any residential district, such structures shall be screened in conformance with the standards adopted by resolution of the City Council. (Ord. 12571 §389; May 8, 1979).

#### **27.71.170 Adjustment of Front Yard Requirements.**

The front yards located within the same zoning district may be adjusted in the hereinafter-stated circumstances. This section shall not apply to the R-3, O-3, B-2, B-5, H-4, and I-3 zoning districts.

(a) Where any forty percent (40%) or more of the frontage in the same zoning district is developed with two or more main buildings that have (with a variation of five feet or less) a front yard greater in depth than herein required, new buildings shall not be erected closer to the street than the greater of the front yards established by the existing main building nearest the street line.

(b) Where any forty percent (40%) or more of the frontage in the same zoning district is developed with two or more buildings that have a front yard of less depth than herein required, then:

(1) Where a building is to be erected on a parcel of land that is within 100 feet of existing main buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of the adjacent main building on each side; or

(2) Where a building is to be erected on a parcel of land that is within 100 feet of an existing main building on one side only, such building may be erected as close to the street as the existing adjacent main building. (Ord. 17232 §21; August 18, 1997: prior Ord. 13588 §21; May 9, 1983: Ord. 13363 §1; 1982: Ord. 13084 §1; January 26, 1981: Ord. 12979 §1; August 25, 1980: Ord. 12571 §390; May 8, 1979).

#### **27.71.175 Adjustment of Yard and Lot Area Requirements to Allow the Subdivision of a Lot.**

(a) Subdivision of a Two-Family Dwelling on a Corner Lot. In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the required side yard, rear yard, or lot area for a single-family dwelling to permit the subdivision of a corner lot occupied by a two-family dwelling constructed as two attached single-family dwellings within a single structure into two lots each occupied by one of the two single-family dwellings; provided, however, the two-family dwelling must have conformed to the required lot area and yard regulations prior to the subdivision.

(b) Subdivision of a Two-Family Dwelling on an Interior Lot. In the R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the lot area, lot width, or both, for a single-family dwelling to permit the subdivision of an interior lot occupied by or to be occupied by a two-family dwelling constructed as two attached single-family dwellings within a single structure into separate lots each occupied by one of the single-family dwellings within said two-family dwelling; provided, the lot to be subdivided conforms to the required lot area regulations for the two-family dwelling prior to the subdivision.

(c) Subdivision of a Townhouse on an Interior Lot. In the R-5, R-6, R-7, and R-8 zoning districts, the Planning Director may adjust the lot area, lot width, or both, for a single-family dwelling to permit the subdivision of an interior lot occupied by or to be occupied by a townhouse into two or more separate lots each occupied by one of the single-family dwellings within said townhouse; provided, the lot to be subdivided conforms to the required lot area regulations for the

townhouse prior to the subdivision. (Ord. 17290 §1; February 9, 1998: prior Ord. 16971 §6; April 22, 1996).

#### **27.71.180 Side and Rear Yard Requirements.**

The requirements of side or rear yards on lots that are required to provide three or more front yards or their equivalent may be modified in the following circumstances:

(a) A lot in a dwelling district need provide only a side yard on an interior lot line when the required yard on the adjacent property is also a side yard. A rear yard shall be required on an interior lot line when the required yard on adjacent property is a rear yard.

(b) A lot in a business, commercial, or industrial district need provide only a side yard on an interior lot line unless the lot is occupied by a dwelling other than a hotel or motel, or the adjacent property is in a dwelling district, in which case the rules of subsection (a) of this section shall apply. (Ord. 12571 §391; May 8, 1979).

#### **27.71.190 Building Line District.**

On those streets and highways shown on the "Lincoln Building Line District Map," dated November 1, 1985, which is adopted as a part hereof and incorporated by reference herein, and as the same may be from time to time amended, no structure, sign, parking, or required vehicle stacking shall be located, constructed, or erected within an area designated as a building line district, except as permitted under Section 27.71.200. At intersections that are designated as being within a building line district, the district shall extend for a distance of 650 feet from the centerline of the intersecting street or to the next lot line beyond 650 feet, but not to exceed 700 feet. The street centerlines referred to in this section and on the "Lincoln Building Line District Map" refer to the street centerlines as they existed on the effective date of this title. (Ord. 15129 §1; March 20, 1989: prior Ord. 14386 §1; May 19, 1986: Ord. 13556 §1; March 7, 1983: Ord. 12947 §3; June 30, 1980: Ord. 12571 §392; May 8, 1979).

#### **27.71.200 Uses Within Building Line Districts; Adjustments.**

(a) The City Council may authorize by resolution the location or placement of accessory buildings and structures, not including main buildings or accessory buildings which are part of a main building, within a building line district; provided that such location or placement otherwise meets the requirements of all applicable ordinances, codes, and design standards. Where such uses are not otherwise permitted in the required yard by the applicable district regulations, such uses may not be located within a building line district but the city council, by resolution, may allow such uses to encroach into the required yard, measured from the yard line, a distance equal to the width of the building line district, but in no event beyond the required yard. The applicant for such building or structure shall agree in writing that it shall be moved at the sole cost of the applicant whenever necessary for public use.

(b) Parking spaces, other than required parking, and signs may be located within a building line district and shall not require authorization by the City Council if the applicable district regulations otherwise permit the location of such uses in the required yard. Where such uses are not otherwise permitted in the required yard by the applicable district regulations, such uses may not be located within a building line district but may encroach into the required yard, measured from the yard line, a distance equal to the width of the building line district, but in no event beyond the required yard. Such parking spaces or signs shall comply with all other applicable ordinances, codes, and design standards relating thereto. Signs authorized by this section shall be removed at

the sole cost of the property owner whenever necessary for public use. In the case of parking authorized by this section, the property owner shall agree to reimburse the city for the costs of removal of the parking which exceed the costs the city would normally incur in the widening of such street without the existence of such parking spaces.

(c) The City Council may modify the building line district along the frontage in a block to permit reasonable use of individual property; provided, however, that such a modification shall be granted only when the City Council finds that the modification will not interfere with reasonably anticipated future right-of-way requirements. Any such modification shall first be submitted to the Planning Commission for its recommendation and report and, prior to action by the Planning Commission, all property owners of the frontage in the block for which the modification is requested shall be notified of such request by United States mail. This notice shall be in addition to, and not in lieu of, the notice requirements of Chapter 27.81 of this code.

(d) For purposes of this section, the yard line and the required yard shall be measured from the building line district line rather than the lot line or property line. (Ord. 15129 §2; March 20, 1989; prior Ord. 14386 §2; May 19, 1986; Ord. 14253 §1; October 21, 1985; Ord. 13556 §2; March 7, 1983; Ord. 12720 §1; October 22, 1979; Ord. 12571 §393; May 8, 1979).

#### **27.71.210 Enlargement and Alteration of Lots.**

(a) Any lot or premises which does not meet the area, width, or frontage requirements, or any combination thereof, of the district in which it is situated, may be enlarged without affecting the purposes for which it may be used; provided, that such enlargement does not result in the creation of an additional lot which does not conform to the applicable requirements of this code.

(b) In the AG or AGR zoning district, the common lot lines of two or more adjoining lots, both or all of which do not meet the area, width, or frontage requirements, or any combination thereof, of the district in which such lots are situated, may be altered without affecting the purposes for which such lots may be used, provided:

(1) That such alteration does not result in the creation of a lot which does not meet the minimum standards for water and sanitary sewage disposal systems as required by applicable state, county, and city regulations; and

(2) That such alteration meets all requirements of the city land subdivision ordinance.

(c) In those instances where a governmental agency acquires land for the purposes of road right-of-way from lots which were legally existing on the effective date of this title, or lots which were lawfully created after the effective date of this section, the acquisition of said right-of-way shall not affect the status of said lot as a buildable lot with respect to minimum lot area, width, or frontage requirements of this title provided:

(1) That all new construction, enlargements, extensions, or conversions of any buildings, structures, or uses including open land uses shall comply with all applicable provisions of this title.

(2) That such lots located in AG and AGR districts contain a minimum of one acre and have an average lot width of not less than 150 feet.

(3) That such lots located in an "R" residential district contain a lot area of not less than 4,000 square feet and an average lot width of not less than forty feet. (Ord. 16409 §1; July 6, 1993; prior Ord. 15615 §1; July 9, 1990; Ord. 13324 §1; March 1, 1982; Ord. 13100 §1; March 2, 1981).

**27.71.220 Replacing Non-standard Accessory Building on Narrow Lot.**

In the R-1, R-2, R-4, R-5, R-6, R-7, and R-8 zoning districts, a new or replacement accessory building may be erected on the site of an existing detached accessory building constructed on or before November 2, 1953, on a lot of record with an average lot width of less than fifty feet although the site does not meet the required minimum setback from a side, rear, or side and rear lot line(s), provided:

(a) Such new or replacement accessory building does not extend beyond the exterior perimeter of the existing accessory building; and

(b) Such new or replacement accessory building shall otherwise comply with all applicable city ordinances. (Ord. 13527 §1; January 3, 1983).

**27.71.230 Minimum Separation Between Buildings and Pedestrian Way Easement.**

The minimum separation between a building and a pedestrian way easement shall be ten feet. (Ord. 13957 §1; September 17, 1984).

**27.71.240 Yard Accessories in Required Yards.**

Poles, posts, and other customary yard accessories, ornaments, and furniture may be located in any yard subject to requirements limiting obstruction of visibility and height limitations. (Ord. 14448 §1; July 28, 1986).

**27.71.250 Buildings, Churches, Height of.**

In all districts where churches are allowed, the main church building including church steeples, towers, and ornamental spires, used for the conduct of worship or religious services, may exceed the district height limit by the addition of one foot for each foot that such building is set back from all required yards. (Ord. 17105 §1; December 2, 1996).

**27.71.260 Premises That Do Not Meet the Minimum Acreage Requirement of the O-3, B-2, B-5, or I-3 District.**

A use permit may be granted upon a premises which does not meet the minimum total acreage requirement for approval of a use permit in the O-3, B-2, B-5, or I-3 zoning district, provided that:

(a) The premises was legally created prior to January 1, 2000;

(b) The premises has remained under separate ownership from adjoining properties formerly in the applicable district; and

(c) The zoning district in which the premises is located has been reduced in size by other changes of zone isolating the premises from similarly zoned properties. (Ord. 17668 §1; May 15, 2000).